

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**WINSTON ENNISS,**

**Plaintiff,**

**MEMORANDUM AND ORDER**

**-against-**

**05-CV-1494 (CBA)**

**ABSOLUTE HOME HEALTH  
CARE, INC.,**

**Defendant.**

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**ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:**

The Court has reviewed the parties' correspondence concerning plaintiff' s [Proposed] Order re FLSA Notice of Collective Action Pursuant to 29 U.S.C. § 216(b) (" Proposed Order").

In his letter of December 21, 2005, defense counsel suggests changes to Sections 1, 2, 3 and 4 of plaintiff' s Proposed Order, as well as to the Consent to Sue form. Plaintiff consents to all of defendant' s proposed changes except the proposed change to Section 2. See 12/22/05 Letter to the Court from Richard S. Corenthal. In that portion of the Notice describing the lawsuit, defendant would include a paragraph summarizing defendant' s opposition to plaintiff' s claims. In other FLSA and ADEA actions in this Circuit, courts have approved similar language in notices of collective action. See, e.g., Gjurovich v. Emmanuel' s Marketplace, Inc., 282 F.Supp.2d 91, 98 (S.D.N.Y. 2003); Schwed v. General Electric Co., 159 F.R.D. 373, 378 (N.D.N.Y. 1995). Plaintiff' s objection to defendant' s request is therefore overruled, and all of defendant' s proposed changes are approved.

In addition, the first paragraph of Section 10 of the Proposed Order should be amended to replace “ Carol B. Amon” and “ District Judge” with “ Roanne L. Mann” and “ Magistrate Judge,” respectively. Judge Amon has referred the issue of class notice to the undersigned magistrate judge, who has the authority to grant leave to circulate a collective action notice under the FLSA. See, e.g., Patton v. Thomson Corp., 364 F.Supp.2d 263, 265-66 (E.D.N.Y. 2005) (collecting cases); accord Mazur v. Olek Lejbzon & Co., No. 05 Civ. 2194(RMB)DF, 2005 WL 3240472, at \*2 n.1 (S.D.N.Y. Nov. 30, 2005).

Plaintiff’ s counsel is directed to promptly modify the Proposed Order consistent with this opinion and to file it via ECF for the Court’ s signature.

**SO ORDERED.**

**Dated: Brooklyn, New York  
January 10, 2006**

**ROANNE L. MANN  
UNITED STATES MAGISTRATE JUDGE**